



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/982,548

10/18/2001

Dongfang Liu

M0656.70070US00

7782

23628 7590 03/17/2008  
WOLF GREENFIELD & SACKS, P.C.  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2206

EXAMINER

MCINTOSH III, TRAVISS C

ART UNIT

PAPER NUMBER

1623

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

The Amendment filed 12/6/2007 has been received, entered into the record, and carefully considered. The following information provided in the amendment affects the instant application by:

Claims 58, 116-121, 204, 206-209, 211-213, and 223-232 have been amended.

Claims 239-252 have been added

Claims 1-57, 59-115, 122-203, 205, 210, 214-222 and 233-237 have been canceled.

Remarks drawn to rejections of Office Action mailed 6/1/2007 include:

Claim objections: which have been overcome by applicant's amendments and have been withdrawn.

112 2<sup>nd</sup> paragraph rejections: which have been overcome by applicant's amendments and have been withdrawn.

102(b) rejection: which has been withdrawn over the rejected claims as they have been canceled, however, a new rejection has been made over the newly added claims as set forth below.

An action on the merits of claims 58, 116-121, 204, 206-209, 211-213, 223-232, and 238-252 is contained herein below. The text of those sections of Title 35, US Code which are not included in this action can be found in a prior Office action.

***Election/Restrictions***

Claims 232, 237, and 238 were previously withdrawn as being drawn to a non-elected group based upon original presentation. Applicants argued that their elected group II included methods of using the compositions of claims 43, 58, 116-121, and 204-214 and thus believes that claims 232, 237, and 238 are directed to such methods and thus should be included within the elected group. This is not found convincing. It is noted that the examiner restricted between groups I and II on 12/29/2005 and applicants elected group II on 5/5/06, which was treated as election without traverse as set forth in the office action on 8/8/2006. The subject matter of currently pending claims 232 and 238 belonged to the methods as set forth in group I of the restriction requirement: "drawn to methods of producing a therapeutic effect by administering HLGAG particles having a diameter of 1-500 microns". As such, claims 232 and 238 are withdrawn as being drawn to a non-elected group.

***Claim Rejections - 35 USC § 102***

Claims 239-252 are rejected under 35 U.S.C. 102(b) as being anticipated by Edelman et al. (US 5,527,532).

The '532 patent discloses dry unformulated heparin particles having a diameter of less than 180 microns (see sentence bridging columns 6-7). Since the Office does not have the facilities for preparing the claimed materials and comparing them with prior art inventions, the burden is on Applicant to show a novel or unobvious difference between the claimed product and the product of the prior art. See *In re Best*, 562 F.2d 1252, 195 USPQ 430 (CCPA 1977) and *In re Fitzgerald et al.*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). It is noted that the particles made

by the '532 patent would be seen to have inherently contained particles which would have met the limitations instantly claimed.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAVISS C. MCINTOSH III whose telephone number is (571)272-0657. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Traviss McIntosh  
March 3, 2008

Shaojia A. Jiang  
Supervisory Patent Examiner  
Art Unit 1623

/Shaojia Anna Jiang/

Supervisory Patent Examiner, Art Unit 1623